1943

File No. Rent Restriction II/4
Legal Deptt

B BRANCH

Subject:—

Rules and notifications under the Bombay Rent Restriction Act, 1939

W. 2/F

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Office of the R.L.A.

Under clause (j) of section 108 of the Transfer of Property Act, 1882, in the absence of a contract or local usage to the contrary the lessee has power to sub-lease the whole or any part of his interest in the property leased to him. Before leasing his property to a tanant it would be open to the landlord to take an agreement from the tenant that he would not sub-let the property but if the landlord does not choose to impose any such condition on the tenant at the time of leasing the property there is no reason why the Legislative should come to his help and make mere subletting a good ground for making an ejectment order in favour of the landlord or, in other words, nullify the effect of the provisions of clause (j) of section 108 of theTransfer of Property Act, 1882. It is stated in Mr. Sarabhai Dalal's letter that the tenants are making large profits from the sub-tenants but if the tenants are charging them rents not permitted by the Bombay Rent Restriction Act it is for the sub-tenants to come forward and seek their remedy in the proper form.

2. The Chief Justice in his judgement refers to the Act III of 1923 and observes that the Legislature may in furtuer pass an amending Act corresponding to the Act of 1923. Act III of 1923, was passed for a limited purpose. It provided to the following effect:-

"The fact that a tenant the term of whose lease has expired after 21st August 1922, without the written permission of the landlord sub-let the premises for a period extending beyond the term of

his.....

his lease, shall, in the former case at once and in the latter case after the expiry of the said lease be deemed to be a satisfactory cause for the ejectment of the tenant."

The object underlying this provision has been explained in the Statement of Objects and Reasons as follows:-

> "A large number of cases have occured where a tenant sublets his tenancy and accepts a consideration therefore. It is proposed to put a stop to this practice by preventing sub letting beyond the period of the original lease and prohibiting it in the case of a tenant holding in virtue of section 9(1) of Bom. II of 1918."

It is but proper that a tenant should not be allowed to take advantage of the Rent Restriction Act and sub-let the premises after the termination of his lease and if the Administrative Department, passes legislation for such a limited purpose, there can be no objection to it.

Id/- P.N.M.
19/5/43.

U.R. to G.D. No.3694,
dated the 20th May 1943.

JPE.16/7/56.
4 copies.